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February 4, 2000

## Via Hand-Delivery

K. David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, Tennessee 37219

Re: Application of Memphis Networkx, LLC for a Certificate of Public Convenience and Necessity to Provide Intrastate Telecommunication Services and Joint Petition of Memphis Light Gas & Water Division, a Division of the City of Memphis, Tennessee ("MLGW") and A&L Networks-Tennessee, LLC ("A&L") for Approval for Agreement Between MLGW and A&L regarding Joint Ownership of Memphis Networkx, LLC; Docket No.99-00909 – Responses to Data Requests

Dear Mr. Waddell:

Enclosed you will find the original and 13 copies of Responses of Memphis Networkx to the Data Requests from the TRA Staff which include pre-filed testimony in support of the Application and Joint Petition.

Please contact me if you need any additional information.

Sincerely,



D. Billye Sanders

DBS:lmb  
w/Enclosures

cc: John Knox Walkup, Esq.  
J. Maxwell Williams, Esq.  
Ward Huddleston, Esq.

**FILE**

**RESPONSES TO DATA REQUEST FROM THE  
TENNESSEE REGULATORY AUTHORITY PURSUANT  
TO APPLICATION OF MEMPHIS NETWORKX, LLC  
DOCKET NO. 99-00909**

**FEBRUARY 4, 2000**

**1. Sworn Pre-Filed Testimony.**

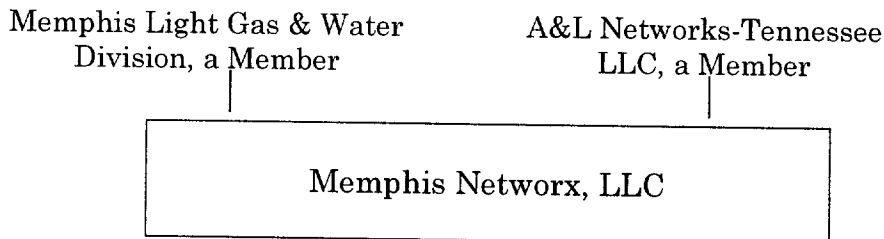
***Response:***

Attached is the sworn pre-filed testimony of Ward Huddleston, Jr. on behalf of Memphis Networkx, LLC and J. Maxwell Williams on behalf of Memphis Light Gas & Water Division (MLGW).

**2. Please provide an organizational chart of corporate structure.**

***Response:***

**MEMPHIS NETWORKX, LLC  
ORGANIZATIONAL CHART**



**3. We need the toll free number to be provided as a repair and maintenance (customer service) number as soon as you have it in place.**

***Response:***

Memphis Networkx will establish a toll-free repair and maintenance number prior to beginning service. Prior to that time, any inquiries can be directed to Memphis Networkx at (901) 213-5112.

**4. Please explain in detail the equipment to be used and the method of deployment.**

***Response:***

Memphis Networkx will deploy a Class 5 carrier grade central office switch from among Nortel, Lucent and Cisco in its network operations center. The selected vendor will be engaged to engineer, furnish and install the equipment through its Professional Services Group under the supervision of Memphis Networkx's engineering and construction management. The switch will be comprised of components that are Bellcore Network Equipment Building Standards (NEBS) compliant and meet all industry standards.

The fiber optic cable selected by Memphis Networkx will be single mode fiber with 144 strands capable of supporting the delivery of DS1, DS3, OC3, OC12, OC48, OC192 as well as Dense Wave Divisional Multiplexing equipment.

The installation of the backbone cable will be contracted to qualified contractors consistent with the Small and Minority-Owned Telecommunications Business Participation Plan filed with the Authority and under the supervision of Memphis Networkx's engineering and construction management. The backbone will be largely aerial with some underground deployment. The detailed design is being developed under the supervision of Memphis Networkx's engineering and construction management. It is anticipated the backbone will initially consist of OC48 transmission equipment which will be engineered, furnished and installed by the vendor under the supervision of Memphis Networkx's engineering and construction management. Memphis Networkx anticipates locating the transmission equipment in 14 BellSouth central offices in Shelby County as well as up to 22 customer access points. From the customer access points, direct connections down to the DS0 level will be provided.

Digital subscriber line access modes (DSLAM) will also be located in the BellSouth central offices for the provision of DSL type services to carriers and end users. The deployment of the DSLAMs will be consistent with the previous methodology.

OC3 equipment will be installed at carrier and large end user sites by Memphis Networkx's engineering and construction management personnel. The deployment of hybrid fiber coaxial cable (HFC) to end users will be through qualified contractors under the supervision of Memphis Networkx's engineering and construction management.

The timing of the deployment of the network is projected in Exhibit H to the application. It is anticipated the backbone and switching equipment will be deployed in 2000 and 2001 with the access to the end users being primarily in 2001, 2002 and 2003.

**BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE**

IN RE: APPLICATION OF MEMPHIS )  
NETWORK, LLC FOR A CERTIFICATE OF )  
PUBLIC CONVENIENCE AND )  
NECESSITY TO PROVIDE INTRASTATE )  
TELECOMMUNICATIONS SERVICES )  
AND JOINT PETITION OF MEMPHIS )  
LIGHT GAS AND WATER DIVISION, )  
A DIVISION OF THE CITY OF MEMPHIS, )  
TENNESSEE ("MLGW") AND A&L )  
NETWORKS-TENNESSEE, LLC ("A&L") )  
FOR APPROVAL OF AGREEMENT )  
BETWEEN MLGW AND A&L REGARDING )  
JOINT OWNERSHIP OF MEMPHIS )  
NETWORK, LLC )

DOCKET NO. 99-00909

**PRE-FILED TESTIMONY OF J. MAXWELL WILLIAMS  
ON BEHALF OF MLGW**

**Q. PLEASE STATE YOUR NAME, PLACE OF EMPLOYMENT, TITLE AND BUSINESS ADDRESS.**

A. My name is J. Maxwell Williams. I am Vice President and General Counsel for Memphis Light Gas & Water Division, a Division of the City of Memphis, Tennessee. My business address is Memphis Light Gas & Water Division, 220 South Main Street, Memphis, Tennessee 38103.

**Q. WHAT IS MLGW SEEKING IN THIS PROCEEDING?**

A. MLGW seeks approval of the Operating Agreement of Memphis Network, LLC pursuant to T.C.A. § 7-52-103(d). The Operating Agreement, which is dated November 8, 1999, is between MLGW and A&L Networks-Tennessee, LLC. Of course, as one of the owners of Memphis Network, MLGW also supports approval of the application.

**Q. WHAT IS THE PURPOSE OF YOUR TESTIMONY?**

A. The purpose of my testimony is to summarize the terms of the Operating Agreement and to comment on the concern mentioned by NEXTLINK in its petition for intervention regarding its pole attachment agreement with MLGW.

**Q. PLEASE SUMMARIZE THE TERMS OF THE OPERATING AGREEMENT.**

A. MLGW and A&L have agreed to make initial combined capital contributions to Memphis Network of approximately \$10 million and contemplate making capital contributions up to an aggregate amount of approximately \$30 million within the next three years. It is anticipated that in the first year MGLW will contribute approximately \$ 5.3 million and A&L will contribute approximately \$ 4.7 million. The sharing ratio for net profits is 53% for MLGW and 47% for A&L. There is a formula in Article 10 of the Operating Agreement that sets forth in detail the sharing of profits and losses including the losses incurred during the start up phase of the company. Each member will have a 50% voting interest in Memphis Network. The LLC will be managed by a board of governors.

**Q. DO YOU ANTICIPATE THAT OTHER MEMBERS WILL BE ADMITTED TO THE LLC?**

A. Additional members will only be admitted with the consent of all members. In the Operating Agreement, MLGW and A&L have agreed to negotiate in good faith to sell a portion of their financial rights to one or more minority owned businesses within four (4) years from the date of approval of Memphis Network Application by the TRA. This provision is contained in Article 3.4 of the Operating Agreement. Memphis Network has also made reference to this provision in its Small and Minority-Owned Telecommunications Business Participation Plan.

**Q. WHO WILL SELECT THE GOVERNORS OF MEMPHIS NETWORK?**

A. The Operating Agreement provides that there shall be five (5) governors, two (2) elected by MLGW and two (2) elected by an A&L, the fifth (5<sup>th</sup>) will be elected alternately by MLGW and A&L. Initially, the fifth governor will be elected by MLGW. (See Article 5.3 of the Operating Agreement).

**Q. WHAT IS THE SIGNIFICANCE OF THE AGREEMENT DATED NOVEMBER 8, 1999 BETWEEN MLGW AND A&L WHICH WAS FILED IN A SUPPLEMENTAL FILING WITH THE TRA IN THIS DOCKET?**

**A.** This Agreement is what we refer to as the "Umbrella Agreement" which deals with sharing of start up costs incurred prior to the formation of the LLC and costs incurred prior to approval of the application and operating agreement by the TRA. This Agreement is not an agreement for the provision of "related services" (i.e., telecommunications services) which requires approval pursuant to T.C.A. Section 7-52-103. This Agreement was provided to the TRA for informational purposes only.

**Q. HAVE YOU REVIEWED THE PETITION FOR INTERVENTION FILED BY NEXTLINK, TENNESSEE, INC. IN THIS DOCKET?**

**A.** Yes.

**Q. IN THE PETITION, NEXTLINK SAID THAT IT IS CONCERNED ABOUT THE USE, IF ANY, BY THE PETITIONER OF FIBER OPTIC LINES PROVIDED BY NEXTLINK TO MLGW UNDER A POLE ATTACHMENT AGREEMENT BETWEEN MLGW AND NEXTLINK. DOES MLGW PLAN TO ALLOW MEMPHIS NETWORKX TO USE FIBER OPTIC LINES PROVIDED BY NEXTLINK THAT ARE SUBJECT TO THIS POLE ATTACHMENT AGREEMENT?**

**A.** No. The Pole Attachment Agreement between NEXTLINK and MLGW provides that MLGW may use the fiber optic lines only for MLGW's internal purposes. MLGW has no intention of allowing Memphis Networkx to use those lines in violation of that Agreement.

**Q. DOES THAT CONCLUDE YOUR TESTIMONY?**

**A.** Yes.

VERIFICATION

I, J. Maxwell Williams, declare under penalty of perjury that I am authorized by Memphis Light Gas & Water Division to testify on its behalf, that I have caused the foregoing written testimony to be prepared on my behalf, that I have read the foregoing testimony and that the statements contained therein are true and correct to the best of my knowledge, information and belief.

J. Maxwell Williams  
J. Maxwell Williams  
Vice President and General Counsel  
Memphis Light Gas Water Division

STATE OF TENNESSEE )  
COUNTY OF SHELBY )

Sworn to and subscribed before me this 4<sup>th</sup> day of February, 2000.

Denise B. Sanders  
Notary Public  
My Commission Expires: 5/27/2001

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

IN RE: APPLICATION OF MEMPHIS )  
NETWORK, LLC FOR A CERTIFICATE OF )  
PUBLIC CONVENIENCE AND )  
NECESSITY TO PROVIDE INTRASTATE )  
TELECOMMUNICATIONS SERVICES )  
AND JOINT PETITION OF MEMPHIS )  
LIGHT GAS AND WATER DIVISION, )  
A DIVISION OF THE CITY OF MEMPHIS, )  
TENNESSEE ("MLGW") AND A&L )  
NETWORKS-TENNESSEE, LLC ("A&L") )  
FOR APPROVAL OF AGREEMENT )  
BETWEEN MLGW AND A&L REGARDING )  
JOINT OWNERSHIP OF MEMPHIS )  
NETWORK, LLC )

DOCKET NO. 99-00909

**PRE-FILED TESTIMONY OF WARD HUDDLESTON, JR.**  
**ON BEHALF OF MEMPHIS NETWORK, LLC**

**Q. PLEASE STATE YOUR NAME AND BUSINESS ADDRESS.**

**A.** My name is Ward Huddleston, Jr. My business address is 7555 Appling Center Drive, Memphis, Tennessee 38133-5069.

**Q. WHAT IS YOUR CURRENT POSITION AT MEMPHIS NETWORK, LLC?**

**A.** I am the Chief Manager of Memphis Networkx, LLC. As Chief Manager, I will be responsible for overall operations of the company.

**Q. PLEASE DESCRIBE THE CORPORATE STRUCTURE OF MEMPHIS NETWORK.**

**A.** Memphis Networkx is a Tennessee limited liability company. Memphis Networkx is board-managed. The two members of Memphis Networkx are Memphis Light Gas & Water ("MLGW") and A&L Networks-Tennessee, LLC ("A&L"). MLGW, which was established in 1939 by private act, currently operates a municipal electric system in Shelby County, and also provides municipal gas and water distribution services in the county. A&L is a Kansas limited liability company and a wholly owned subsidiary of Aptus Networks, LLC, formerly known as A&L Networks, LLC, also a Kansas



limited liability company. Aptus is in the business of partnering with municipal electric utilities for the provision of next generation network services in the local exchange.

**Q. DID A&L NETWORK, LLC CHANGE ITS NAME AFTER THE MEMPHIS NETWORKX APPLICATION WAS FILED WITH THE AUTHORITY?**

**A.** Yes. On January 31, 2000, A&L Networks, LLC changed its name to Aptus Networks, LLC.

**Q. DID A&L NETWORK -TENNESSEE, LLC ALSO CHANGE ITS NAME?**

**A.** No.

**Q. WHAT DOES MEMPHIS NETWORKX SEEK THROUGH ITS APPLICATION AND TESTIMONY?**

**A.** Memphis Networkx is seeking approval of its application for a certificate of public convenience and necessity to provide intrastate telecommunications services in Tennessee. Memphis Networkx is acting pursuant to a new state law which allows MLGW, a municipal electric utility, to jointly establish a telecommunications provider with a private entity, in this case A&L.

**Q. WHAT DO MLGW AND A&L SEEK THROUGH THEIR JOINT PETITION?**

**A.** MLGW and A&L are seeking approval of the Operating Agreement of Memphis Networkx, which allows joint ownership of a telecommunications provider by MLGW and A&L. Such approval is required by state law.

**Q. PLEASE DESCRIBE THE RANGE OF SERVICES THAT MEMPHIS NETWORKX PROPOSES TO OFFER IN TENNESSEE.**

**A.** As stated in our application, Memphis Networkx will initially be offering services in Shelby County, but will expand those services throughout the state, where authorized under state law. Memphis Networkx intends to provide wholesale local exchange telecommunications services to carriers, and retail local exchange telecommunications services to end users. Memphis Networkx will also resell intraLATA local exchange and interLATA exchange services in the state.

Examples of the proposed services include digital signaling zero (voice grade and digital grade); dedicated DS1 and DS3; optical carrier (OC) 3 and OC 12;

toll free dialing, custom calling features, digital subscriber line (DSL); cable modem services (high speed data and voice services via coaxial cable); centrex services; voice and data over packet based switches; metropolitan area network services; collocation services in the Memphis Network network operations center; 911 and E911 emergency services; white page directory listings and directory assistance; consumer access to and support for the Tennessee Relay Center; free blocking for 900, 976 type services; Lifeline and Link-up to qualifying citizens; and educational discounts consistent with TRA policy.

**Q. WILL MEMPHIS NETWORKX REQUIRE CUSTOMERS TO PURCHASE CPE THAT IS NOT COMPATIBLE WITH THE SYSTEMS OF INCUMBENT LOCAL EXCHANGE CARRIERS ("ILECs")**

**A.** No. Memphis Networkx will not require its customers to purchase customer premise equipment ("CPE") which is not compatible with ILEC systems.

**Q. IS MEMPHIS NETWORKX AUTHORIZED TO PROVIDE TELECOMMUNICATIONS SERVICES OR HAS IT SOUGHT AUTHORIZATION TO PROVIDE SERVICES IN ANY OTHER STATE?**

**A.** No. Memphis Networkx has not sought approval to offer telecommunications services in any other state.

**Q. HOW WILL MEMPHIS NETWORKX MONITOR ITS FACILITIES?**

**A.** Memphis Networkx will maintain a toll-free number for repairs/maintenance service twenty-four hours a day, seven days a week. A similar toll-free number will also be established for customer service.

**Q. DOES MEMPHIS NETWORKX POSSESS SUFFICIENT MANAGERIAL, FINANCIAL AND TECHNICAL ABILITIES TO PROVIDE ITS PROPOSED SERVICES?**

**A.** Yes.

**Q. PLEASE DESCRIBE MEMPHIS NETWORKX'S MANAGERIAL QUALIFICATIONS.**

**A.** I will serve as the Chief Manager of Memphis Networkx. I have over 24 years of professional experience including 16 years working for major telecommunications providers, including Sprint, United Telecommunications, and United Telephone-Southeast, and have also supervised several start-up projects.

In addition, David Ori will serve as Secretary and Chief Financial Officer of Memphis Networkx. Mr. Ori has over 20 years financial and operational experience.

Initially, Memphis Networkx will also utilize consultants from Arthur D. Little, Inc. ("ADL"), one of the world's premier consulting firms with offices in over 50 locations worldwide. The core team of consultants from ADL that will be assigned to the Memphis Networkx project include Joel Halvorson, Jerry Freeman and Barbara LaRue all of whom have extensive telecommunications experience.

**Q. PLEASE DESCRIBE MEMPHIS NETWORKX'S TECHNICAL QUALIFICATIONS.**

Randy McDaniel will serve as the Manager of Engineering for Memphis Networkx. Mr. McDaniel has over 27 years of telecommunications technological experience. ADL consultants Roger Hay and Pat White will also be available to provide additional technical assistance. Major telecommunications network equipment vendors such as Nortel, Lucent and Cisco will provide the necessary equipment for implementation of the network. All network equipment installed and operated by Memphis Networkx will comply with applicable industry standards in the Bellcore Network Equipment Building Standards (NEBS). Nortel Professional Services Group has been engaged to provide a full-time project manager to Memphis Networkx. In addition, Contactica, Inc., a subsidiary of ADL, has also agreed to provide design, engineering and construction assistance. Frank Wye of Contactica serves as the consulting engineer on this project. Mr. Wye's resume was included in the exhibits to the application.

**Q. IS MEMPHIS NETWORKX FINANCIALLY QUALIFIED TO OFFER ITS PROPOSED SERVICES IN TENNESSEE?**

- A.** Yes. MLGW and A&L, the two members of Memphis Networkx, have agreed to provide equity funding as described in Article 9 of the Operating Agreement. The pro formas and capital budget provided to the Authority as confidential exhibits also show the type of equipment to be used and its cost.

Upon approval of this application by the TRA, MLGW will provide initial funding, in the approximate amount of \$5.3 million, through an inter-division loan from the Electric Division of MLGW to the Telecommunications Division of MLGW that will make an equity investment of approximately \$5.3 million in Memphis Networkx. This loan is to be paid over a period of 6 years, at a rate of interest that is not less than the highest rate earned on invested

electric system funds. Such loan has already been approved by the Comptroller of the State of Tennessee and the Tennessee Valley Authority.

Also upon TRA approval, A&L will provide initial funding, in the approximate amount of \$4.7 million. These funds are being raised for A&L through private offerings by a financial investment firm located in Memphis.

**Q. PLEASE DESCRIBE MEMPHIS NETWORK'S SMALL AND MINORITY-OWNED TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN.**

**A.** Memphis Networkx has designated Carlotta Maclin as the Diversity Officer who is in charge of implementing the Plan. As part of her duties, Ms. Maclin will identify and develop lists of small and minority-owned businesses who may be potential suppliers and contractors for Memphis Networkx; educate these businesses on the opportunities to work with Memphis Networkx; invite and solicit bids from qualified entities; provide advice to the company on small and minority-owned business concerns; establish and maintain records of bid solicitations and awards; and ensure that contracts are paid in a timely manner. In addition, the members of Memphis Networkx have agreed to negotiate in good faith to sell a portion of the financial rights in Memphis Networkx to one or more minority businesses within 4 years of the approval date of the application by the TRA.

**Q. HAS MEMPHIS NETWORKX FILED AN INTRALATA TOLL DIALING PARITY PLAN?**

**A.** Yes. This Plan was attached to the original Application filed in November, 1999.

**Q. HAS MEMPHIS NETWORKX ENTERED INTO AN INTERCONNECTION AGREEMENT WITH BELLSOUTH?**

**A.** No. Memphis Networkx intends to negotiate the terms of such an interconnection agreement and will submit it to the Authority for approval upon the receipt of its certificate of convenience and necessity from the TRA.

**Q. HAS MEMPHIS NETWORKX OBTAINED ANY FRANCHISES FROM LOCAL GOVERNMENTS?**

**A.** Memphis Networkx has applied for franchises in Memphis and in Shelby County. When approval is obtained, Memphis Networkx will seek approval of the franchises from the TRA. Memphis Networkx will seek additional franchises as needed as it expands its services.

**Q. WHAT MEASURES HAS MEMPHIS NETWORK TAKEN TO PREVENT CROSS- SUBSIDIZATION FROM MLGW?**

**A.** Memphis Networkx is a separate legal entity from MLGW. It will have no common employees with MLGW and all of its transactions with MLGW will be at arms length. For example, if Memphis Networkx leases pole attachments from MLGW, Memphis Networkx will pay the highest rate that any pole attachment customer of MLGW pays. Also if MLGW purchases telecommunications services from Memphis Networkx, it will pay the same rate that similarly situated customers will pay, either through the tariff or special contract. All tariffs and/or special contracts would be subject to approval the Authority. Consequently, we believe we have created the company in such a manner and put into place adequate measures so as to prevent cross-subsidization.

**Q. IS APPROVAL OF MEMPHIS NETWORK'S APPLICATION IN THE PUBLIC INTEREST?**

**A.** Yes. Approval of this application and joint petition will help create greater competition in the intrastate telecommunications market by providing an open access network that can be used by various telecommunications providers and end users. Approval will also meet the specific intent of the General Assembly that recently passed legislation authorizing such projects.

**Q. WILL MEMPHIS NETWORK ADHERE TO ALL APPLICABLE POLICIES, RULES AND ORDERS OF THE TENNESSEE REGULATORY AUTHORITY?**

**A.** Yes. Memphis Networkx will comply with all policies, rules and orders of the Authority.

**Q. PLEASE DESCRIBE HOW MEMPHIS NETWORK WILL KEEP ITS BOOKS.**

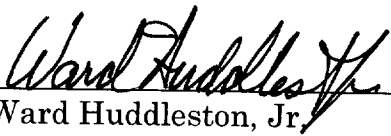
**A.** Memphis Networkx will keep its books in accordance with Generally Accepted Accounting Principles (GAAP). Ernst & Young, a big five accounting firm with significant telecommunications experience, has been engaged as the external auditor to ensure the financial books and records of Memphis Networkx will be kept consistently with the applicable guidelines.

**Q. DOES THIS CONCLUDE YOUR TESTIMONY?**

**A.** Yes.

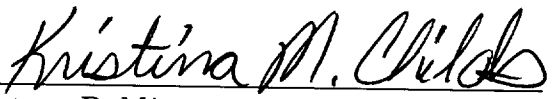
**VERIFICATION**

I, Ward Huddleston, Jr. declare under penalty of perjury that I am authorized by Memphis Networx, LLC to testify on its behalf, that I have caused the foregoing written testimony to be prepared on my behalf, that I have read the foregoing testimony and that the statements contained therein are true and correct to the best of my knowledge, information and belief.

  
\_\_\_\_\_  
Ward Huddleston, Jr.  
Chief Manager  
Memphis Networx, LLC

STATE OF TENNESSEE)  
  )  
COUNTY OF SHELBY  )

Sworn to and subscribed before me this 2<sup>ND</sup> day of February 2000.

  
\_\_\_\_\_  
Notary Public  
My Commission Expires:                      **Commission Expires April 30, 2003**